

ADDITIONAL TERMS AND CONDITIONS FOR ROWES/FOSTERS WHARF, AMENDING
THE RESOLUTION ADOPTED BY THE AUTHORITY ON MAY 25, 1983

1. The Base Rent under the Lease for the Project shall be \$2,100,000, payable without adjustment for premium costs, and shall be allocated as follows:
 - A. The Base Rent for Commercial Office Portion (265,000 square feet) remains at \$1,100,000.
 - B. Base Rent for Residential Portion (245,000 square feet of residential units) shall be \$588,000 per annum, subject to adjustment as provided in the Initial Resolution.
 - C. Base Rent for Executive Suite Portion (130,000 square feet) shall be \$412,000 per annum. In addition to such Base Rent for the Executive Suite Portion, there shall be a percentage rent for such portion equal to one percent (1%) of the total gross revenue, including parking, of such portion in excess of \$8,000,000 per annum payable monthly in advance based upon a budget prepared annually and submitted to the Authority not less than sixty (60) days prior to the beginning of each fiscal year. Within ninety (90) days of the end of each fiscal year, the Redeveloper must submit a calculation of Percentage Rent for that year certified by a CPA acceptable to the Authority and must make a payment, or receive a credit, of Percentage Rent based on the certified statement. Until the annual Percentage Rent amount is certified, and payments and credits are allocated, the monthly Percentage Rent payment in any fiscal year must be no less than one-twelfth of the Percentage Rent payable in the previous fiscal year. The Redeveloper shall have the option to terminate its obligation to pay such Percentage Rent for the Executive Suite Portion, exercisable at any time during calendar 1999, upon payment by the Redeveloper to the Authority of an amount calculated as follows:

The highest dollar amount of the Percentage Rent paid to the Authority pursuant to this Percentage Rent provision in either 1996, 1997 or 1998 shall be capitalized using a capitalization rate equal to the lesser of the prime rate prevailing at the time such option is exercised or ten percent (10%). The amount so calculated will be added to the principal balance of the purchase money mortgage for the Executive Suite Portion of the Project then outstanding, shall bear interest at the then prevailing first mortgage rate, and shall be paid over the remaining term of such purchase money mortgage.

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- D. Base Rent for Commercial Portion under the Lease shall be \$1,100,000 per annum, increased by the percentage rent for the Commercial Portion set forth in the Initial Resolution.
2. The provisions of the Initial Resolution dealing with the option to purchase the fee interest in the Property are amended as follows:
- A. The Redeveloper will have an option to purchase the fee interest in the land or air rights related to, or condominium rights in, the Executive Suite Portion of the project, including such right to 100 parking spaces within the parking facilities, for a purchase price of \$3,400,000.
- B. The Redeveloper will have an option to purchase the fee interest in the land or air rights related to, or condominium rights in, the Residential Portion of the Project, including such rights to 225 parking spaces within the parking facilities, for a purchase price equal to the Base Rent for the Residential Portion under the Lease in the year or purchase capitalized at a rate of 12½%.

In the event of the exercise by the Redeveloper of its option to purchase the Residential Portion, or any portion thereof, prior to November 15, 1989, the purchase price for such portion shall be computed as though the Base Rent for the Residential Portion had already been adjusted on November 15, 1989 by fifty percent (50%) of the cumulative change in the CPI over its level on November 15, 1984 by using the actual change in the CPI from November 15, 1984 to the date of purchase and assuming that the cumulative change from date of purchase to November 15, 1989 will reflect the same change which occurred in the period between November 15, 1984 and the date of purchase.

- C. In the case of both the Residential Portion and the Executive Suite Portion of the Project, the purchase price will be paid by granting the Authority a seventy (70) year first mortgage on the portion purchased in the full amount of the purchase price with interest payable at the then current prevailing first mortgage rate, such interest rate to be adjusted thereafter if such adjustment is customary at the time of the granting thereof.

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- D. The option to purchase granted herein may be exercised by the Redeveloper with respect to the Residential Portion, or any portion thereof, or the Executive Suite Portion at any time subsequent to the issuance by the Authority to the Redeveloper of a Certificate of Completion with respect to each such Portion, or portion thereof.
 - E. The Redeveloper shall have the right to substitute collateral in exchange for the Authority's first mortgage lien of a commercially acceptable nature and quality, reasonably acceptable to the Authority.
- 3. The Initial Resolution provides that the Authority shall receive a Sales Participation of ten percent (10%) of the gross sales generated by the sale of residential condominiums above \$295/NSF. Amounts paid by the Redeveloper or any unit purchaser for the acquisition of a fee interest in a portion of the Residential Portion of the project shall be independent of the computing of such Sales Participation. In addition to such Sales Participation the Authority will receive a Sales Participation equal to ten percent (10%) of the gross sales proceeds from the sale of parking facilities which are a portion of the Residential Portion of the Project in excess of \$33,000 per space.
 - 4. The Redeveloper shall pay to the Authority a deposit in the amount of \$210,000 as follows:
 - A. \$105,000 shall be paid simultaneously with the execution of the Lease Commencement Agreement; and
 - B. \$105,000 shall be paid on the six-month anniversary of the execution of the Lease Commencement Agreement.

Said deposit shall constitute a prepayment of rent applicable to the first monthly payments of Lease Base Rent required pursuant to the lease between the Redeveloper and the Authority. Said deposit shall be retained by the Authority as liquidated damages in the event of a termination of the Lease Commencement Agreement between the Redeveloper and the Authority by reason of a default thereunder by the Redeveloper. The Authority shall be under no obligation to segregate the amount of such deposit and may expend the amount thereof in its unrestricted discretion.
 - 5. The following schedule for lease execution, production of evidence of financing, preparation of drawings and final designation is hereby substituted for the schedule contained in the Initial Resolution:

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A. The minimum requirements for final designation shall be:

- (1) evidence of the availability of necessary financing for the project; and
- (2) preliminary working drawings and outline specifications for the project approved by the Authority in accordance with procedures for design review set forth in the Lease Commencement Agreement.

B. If the rent commencement date described in paragraph 1 above shall be prior to the satisfaction by the Redeveloper of the requirements for final designation, the lease shall provide for the survival of the provisions of the Lease Commencement Agreement until such requirements have been satisfied and the Authority has finally designated the Redeveloper.

6. To the extent not inconsistent with the provisions of this vote, the Initial Resolution is hereby ratified and confirmed.



The Beacon Companies

One Post Office Square
Boston, Massachusetts 02109
(617) 451-2100

October 25, 1983

Mr. Robert J. Ryan, Director
Boston Redevelopment Authority
One City Hall Plaza
Boston, Massachusetts 02210

Re: Rowes/Fosters Wharf

Dear Mr. Ryan:

We want to take this opportunity to thank you for the courtesies extended at our meeting of October 11. We greatly appreciate your continuing support of our development plans for Rowes Wharf, and want to reiterate our commitment to complete Rowes Wharf as one unified project, as discussed at that meeting. This commitment encompasses all aspects of the project, including the commercial, residential and parking components, as well as the public walkways and open spaces, the ferry terminal and boarding pavilion.

As discussed last week, there are three refinements to the project which we have asked you to consider. We wish to summarize the material presented to you previously, reiterating the basis for and benefits to be derived from the following:

1. Modifications to height and massing
2. Refinements in uses
3. Adjustment of rent commencement schedule

1. Modifications to Height and Massing

In accordance with your request to reduce the height of the project, we directed Skidmore, Owings & Merrill to undertake an extensive series of height and massing studies, the results of which were presented in our meeting. This design is represented in a series of sketches, plans and elevations submitted under separate cover. These materials have been submitted to the Authority's design staff for their approval at the schematic design level. These designs are of course subject to ongoing review, consistent with our Agreement.

The 165' design maintains the total program area by displacing the mass which exceeded the height guidelines to a bridge area between the two buildings along Atlantic Avenue. The bridge area creates a large, archway space, skylit from above, which becomes the unifying element along the Atlantic Avenue facade. This design maintains all of the best attributes of our original submission. The site plan, including the wharf contour

Mr. Robert J. Ryan, Director
October 25, 1983
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and the network of public open spaces, water areas and walkways, remains completely unchanged. The designs of the residential buildings on the wharves are the same, as is the ferry terminal and boarding pavilion. Materials are consistent with our proposal, again subject to ongoing design development.

The new design provides an additional public benefit. The archway will be a very public space, providing the centerpiece of civic prominence this project deserves. The space is over six stories in height, comparable in scale to the central courtyard of the Boston Public Library. It will be a dramatic front door to Rowes Wharf, drawing people towards and into the project. Once entered, the space will function as the hub from which other public uses emanate.

We would like to clarify one further point regarding the project height. In accordance with zoning practices, as shown in previous submissions, the height of the project is 165' to the parapet, with mechanical above.

2. Refinements in Uses

During the process of design studies mentioned above, an additional factor emerged, unforeseen at the time of designation. The Central Artery reconstruction project, mentioned briefly in our Letter of Intent, became increasingly probable. We accordingly directed SOM to study the June 30 Draft EIS/EIR to determine what impact this construction project could have on our development plans for Rowes Wharf. The initial results of this study were chilling. A twelve-year construction period is envisioned, planned to commence in late 1986 to early 1987, just as we expected to be marketing and occupying Rowes Wharf.

Our immediate concern, confirmed by the response of our marketing consultants, was the potential harmful effect on the marketing of condominiums, particularly those located along Atlantic Avenue. The impact was potentially so great as to jeopardize the financial feasibility of the project. In response to this combination of physical and market impacts, we have pursued two courses of action. First, together with SOM, we prepared a detailed series of comments to the Draft EIS concerning the construction and long-term impacts of the Artery project, with suggestions for the mitigation of those impacts, a copy of which was sent to you; and followed up upon the requests for those mitigations with meetings with the EOTC. Second, we analyzed various program refinements to determine which uses were compatible with the overall program and were 1) less sensitive to Artery construction impacts, 2) would serve as a buffer for the residential uses, and 3) would enhance the program in the long-term. This analysis coincided with and was integrated with the ongoing massing studies. Our analysis resulted in the reallocation of 130,000 sf of space along Atlantic Avenue from residential condominium use to use as Executive Suites. 130,000 sf represents less than 15% of the total built area, yet this refinement will have a considerable impact on Rowes Wharf in both

public benefits and project feasibility. The attached schedule recapitulates the program as presented to you at our meeting.

The Executive Suites will be more resistant to potential negative impacts of the Central Artery than the condominiums which they replace. The suites also offer other substantial benefits to the project:

- o Strengthened mixed-use scheme: When completed, the overall development will have a better balance between more active and intensively used commercial areas, and the more private residential condominiums. It will be a true mixed-use project, with no one element predominating.
- o Enhanced public access: The Executive Suites energize the project by providing a public destination at the site's southern edge. The water basin will be completely activated with indoor and outdoor restaurants which complement the ferry terminal and the marina. Pedestrians will be drawn to and through the site, fully realizing the public benefit of the Walk-by-the-Sea.
- o Increased public utilization: The mix of uses will result in active use of the site 18 hours a day. This is particularly desirable as a means of populating this area in the evening, increasing security for adjoining properties as well as Rowes Wharf.
- o Improved feasibility of condominium component: Our marketing consultants have strongly recommended providing hotel-style services as a necessary and vital amenity to the condominiums, similar to marketing strategy for the Ritz Condominiums and the Four Seasons. Certain of the residential units will be located directly above the suites, and they will therefore be easily connected for service and security purposes to the hotel facility. These units should be particularly attractive for corporate users.
- o Enhanced office leasing: Beacon's recent successful rent-up of One Post Office Square demonstrates the synergy that exists between office and hospitality uses. Meeting and board rooms, specialized telecommunications facilities and food and beverage services are important amenities that can be efficiently offered through the suite facilities.
- o Permanent jobs: Hospitality and service uses are by definition labor intensive; we expect permanent jobs will increase substantially from the number projected in earlier submissions.

Our market analysis of the Executive Suite use indicates that it will be a viable concept in this location. Suite hotels are distinguished by providing all units with separate rooms for work and sleep. Because of this unique physical characteristic, suite hotels cater to distinct market

segments: commercial travelers on longer visits; women travelers; relocating employees; and families. As a result of this market orientation, and because of its small size, this property will have a negligible impact, if any, on existing or planned hotels in the Downtown market. It should have no impact on the Back Bay hotels, a distinct sector within the Boston market.

Finally, we have prepared proforma statements for the Executive Suite component, which are attached. Also provided are revised proformas showing the increased feasibility of the condominium components.

3. Adjustment to Rent Commencement Schedule

The design, financial and market studies discussed above have perforce taken some time to complete. This unavoidable detour in the development process and the projected longer duration of environmental reviews because of the Central Artery environmental process necessitates an adjustment to the original schedule for development and for commencement of rent. Understanding the Authority's desire to establish a definite date for the start of rent payments, we have suggested that rent payments commence one year from the date initiating the MEPA process with filing of the Environmental Notification Form (ENF), and upon receipt of all City land-use permits.

In demonstration of our good faith in seeking this amendment, we suggest a prepayment of rent in an amount of 10% of the annual proposed payments. This amount will be applied to the first year's rent, and will be paid in two installments: half at the time of execution of the Lease Commencement Agreement; with the balance to be paid six months from that anniversary.

We would also like to stress two other matters which remain unchanged from the resolution voted by the Board. Neither the rent proposal nor the construction period change from those provisions carried in the tentative designation vote:

- o Financial Benefits to City: Base rent and percentage rent will be the same or greater than previously proposed. (See the attached recalculation of rent based on the refined program.)
- o Construction Period: We are committed to construction of all public areas, exterior work and shell construction in accordance with the three-year (36 month) schedule. Tenant fit out and condominium unit finishes will be completed pursuant to the actual leasing and sales of those areas. As previously discussed, financing and ownership requirements will necessitate that separate certificates of completion and occupancy be issued for each project component.

We have been greatly encouraged by the response to these project refinements as presented at our previous meetings. We believe that these changes, taken together, result in a far stronger project in terms of design, financial

Mr. Robert J. Ryan, Director
October 25, 1983
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feasibility and benefits to the City. We now seek your determination whether the foregoing matters should be submitted to the BRA Board for their approval. We are preparing renderings of the modified design, which will be completed for use at the Board meeting on November 3, if you so desire. We also seek your approval to initiate presentations of the project as outlined above to public groups and regulatory bodies, including the Boston Society of Architects, the Boston Harbor Associates and the various State environmental permitting agencies. Finally, we are preparing the ENF, which could be filed for publication in the November 15 Environmental Monitor.

We again want to thank you for your ongoing support and consideration of our development plans. Carol Gladstone, the project manager, is of course available to answer any questions you or your staff may have.

Sincerely,

Edwin N. Sidman

ENS/sw

ROWES WHARF

ATTACHMENT 1: Summary of Program Refinements
October 25, 1983

	PRE-ARTERY		POST-ARTERY	
	<u>Total Area</u>	<u>% Area</u>	<u>Total Area</u>	<u>%Area</u>
OFFICE	265,000	32%	265,000	32%
CONDO	375,000	44%	245,000	29%
	(240 units)		(150 units)	
EXECUTIVE SUITES	--	--	130,000	15%
			(160 suites)	
RETAIL & TERMINAL	25,000	3%	25,000	3%
PARKING/SERVICE/ LOADING (below grade)	<u>175,000</u>	<u>21%</u>	<u>175,000</u>	<u>21%</u>
TOTAL BUILT AREA:	840,000	100%	840,000	100%

ROWES WHARF

ATTACHMENT 2: Recapitulation of Financial Proposal
October 25, 1983

PRE-ARTERY

Rent

	Total Rent	Rent/SF
Residential	\$ 900,000	\$ 2.40 (average)
Commercial	<u>1,100,000</u>	<u>3.80</u>
	\$2,000,000	\$ 3.00

Kickers

Residential: 10% of gross sales above \$295/NSF

Commercial: 10% of net cash flow

Purchase Option under Lease

Residential: \$15/SF plus escalator

POST-ARTERY

Rent

Residential

- Condominiums	\$ 588,000	\$ 2.40 (average)
- Executive Suites	412,000	3.17
Commercial	<u>1,100,000</u>	<u>3.80</u>
	\$2,100,000	



The Beacon Companies

One Post Office Square
Boston, Massachusetts 02109
(617) 451-2100

November 15, 1983

Mr. Robert J. Ryan
Director
Boston Redevelopment Authority
One City Hall Plaza
Boston, Massachusetts 02201

Dear Bob:

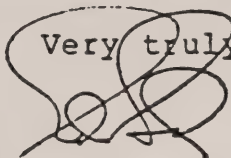
This letter is written at the culmination of two days of intense and fruitful discussions between The Beacon Companies and the BRA, the purpose of which was to resolve all outstanding economic issues relating to the Rows Wharf project so that it can continue to proceed with increasing momentum. I had writtten to you November 10, 1983 expressing some concerns over requested adjustments in the ground rent to be paid by the executive suite portion of the Rows Wharf project. Those concerns were expressed in terms of the feasibility of the executive suite portion and, in turn, the project itself. Our agreements concerning ground rent and purchase options reached over the last two days have dispelled those concerns and enable me to respond that the economic terms agreed upon, as expressed in a draft resolution submitted by our counsel for your consideration, describe a feasible project.

Although I believe that it was made totally clear in our discussions on the subject, I wanted the record to reflect one specific clarification concerning the economics of our executive suite proposal. You have received from us two different sets of pro forma projections for the executive suites; one dated October 25th and the second dated November 9th. The November 9th pro forma was submitted to share with you how we expect the lending community will evaluate our executive suite proposal for the purpose of defining the amount of a mortgage loan. Our October 25th pro forma is a more optimistic pro forma which describes our belief concerning the future performance of the suite element of the project. Our negotiations with you have been conducted in light of this more optimistic view of the potential value of the executive suites.

Mr. Robert J. Ryan
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November 15, 1983

We sincerely hope that the members of the Authority will share our view that the program for Rowes Wharf, modified only slightly by the incorporation of a small suite facility, and the economic yield to the Authority from the Rowes Wharf project, increased by reason of this minor modification, should be approved and reconfirmed at tomorrow's Board meeting.

Very truly yours,

A handwritten signature in dark ink, appearing to be 'E. N. Sidman', written over a circular stamp or seal.

Edwin N. Sidman

/mt



BOSTON REDEVELOPMENT AUTHORITY

**ROWES /
FOSTERS WHARF**

MEMORANDUM

NOVEMBER 16, 1983

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: WATERFRONT PROJECT, MASS. R-77, APPROVAL
OF MINOR ADJUSTMENTS IN THE DEVELOPMENT
PROGRAM FOR ROWES/FOSTERS WHARF

As you are aware, the Authority voted on May 25, 1983 to tentatively designate Rowes Wharf Company as redeveloper of Rowes/Fosters Wharf, for a mixed-use development subject to the Terms and Conditions in the designation, including a reduction in the height of the development to 165 feet.

The developer has gone through an extensive design review process with the Authority to reduce the height of the building while retaining the same square footage that was originally approved. During the same time as the design review process aimed at reducing the height, the State began to actively pursue a program for the almost certain depression of the Central Artery. The impact of the ongoing construction of the depressed Central Artery Project over the twelve-year period would adversely affect the feasibility and marketability of the number of residential condominiums that were originally included in the developer's submission.

As a result of this dual design review process and impact analysis of the Central Artery, it was concluded that substantially all of the original program proposed by the developer remained feasible, with only one minor program refinement. The developer has therefore proposed to reallocate approximately 15% of the building area that was originally proposed for condominium units to transient housing in the form of executive suites. By placing these executive suites along Atlantic Avenue, it will serve to buffer the majority of the residential units that will still be located on the finger piers from the Artery.

It is, without doubt, that the inclusion of the hotel executive suites strengthens the feasibility of the office and retail uses by serving as a direct amenity to each and, therefore, enhances the project overall by further encouraging and inviting the public to utilize the development. The developer, as you see in the attached, retains the same square footage of commercial office area and parking spaces that were originally proposed and simply allocates approximately 35% of the area originally set aside for residential, and converts that same area to 160 units of executive suites.

This change in use will result in increased feasibility of the project and will result in increased rental payments to the Authority from the original \$2,000,000 base rent to a new figure of \$2,100,000. It is also significant to note that for Authority budgeting purposes, this base rental will commence on November 15, 1984, with no pre-conditions. Included in the amended package is a deposit of \$210,000 payable in two installments, to be utilized by the Authority for ongoing project costs and which will be credited towards their first year's rental.

The transient housing use will also allow the Authority to participate, as it presently does with the office portion, in the success of the project as a partner by sharing in all gross receipts above certain basic cost figures which are outlined in more detail in the attached memorandum from the developer and the corresponding Authority vote.

The inclusion of transient housing use is consistent with the Authority's goals for an active mixed-use development and will enhance the Authority's goal of opening the site to the general public's use and, as you recall, is consistent with the previous Authority plans for the site as John Carzis, the previous designated developer, had the Authority's approval for transient housing use on Rowes Wharf.

It is, therefore, recommended that the Authority approve the minor modifications for the development of Rowes/Fosters Wharf and authorize the Director to execute the appropriate documents to reflect the increased rental commitment of the developer.

An appropriate vote is attached.

VOTED: That the Resolution adopted by the Authority on May 25, 1983, with respect to the tentative designation of a Redeveloper for Rowes/Fosters Wharf in the Downtown Waterfront-Faneuil Hall Urban Renewal Area and in the Rowes/Fosters Wharf Lease Commencement Agreement Summary incorporated therein by reference (the "Initial Resolution"), are hereby amended as follows:

1. The revised development proposal of the Redeveloper as described in Attachment 1 dated October 25, 1983 annexed hereto and in the Redeveloper's letter to the Director of the Authority dated October 25, 1983, including, without limitation, the re-allocation of 130,000 square feet of the Residential Condominium Portion of the project from residential units to executive suites, an all-suite hospitality facility, is hereby approved by the Authority and shall be for all purposes the development proposal described in said Initial Resolution.
2. The Redeveloper shall enter into a Lease Commencement Agreement with the Authority, consistent with the provisions of the Initial Resolution, as amended herein, within 60 days from the adoption of this vote.
3. The Base Rent under the Lease of \$2,100,000 will commence on November 15, 1984. Such rental is further defined in the attachment dated November 16, 1983 and entitled, "ADDITIONAL TERMS AND CONDITIONS FOR ROWES/FOSTERS WHARF, AMENDING THE RESOLUTION ADOPTED BY THE AUTHORITY ON MAY 25, 1983"; said attachment is hereby incorporated by reference and made a part thereof.

